

**HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY**

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Writ Petition No. 1207 of 2001

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Between:

K. Siva Prasad

... Petitioner

And

Valluru Raghava Rao & others

... Respondents

:: O R D E R ::

Counsel for the petitioners : Taken-up petition.

Counsel for respondent No.1 : None.

Counsel for respondent No.2 : Sri Nandigam Krishna Rao

29th March, 2007

Per G.S. SINGHVI, CJ

Letter dated 20.10.2000 addressed by Sri K. Siva Prasad, Senior Civil Judge, Amalapuram to the Registrar (Judicial), High Court of Andhra Pradesh with the allegation that Telugu serial published in Andhra Prabha Weekly dated 18.9.2000 and 25.9.2000, which was written by Sri K.N.Y. Patanjali with the title 'Mera Bharat Mahaan' contained highly derogatory and contemptuous remarks against judiciary, was treated as a taken up petition and notices were issued to Sri Valluru Raghava Rao, the Editor of Andhra Prabha Telugu Illustrated Weekly, Sri K.N.Y. Patanjali, writer of the serial story, Sri

Raghunathan, Printer and Publisher, Andhra Prabha Telugu Illustrated Weekly, the Commissioner, Information and Public Relations Department, the Chairman, Andhra Pradesh Press Academy and the Commissioner of Police, Hyderabad.

The purport of the notice issued by the Court was to direct the official respondents to take action against respondent Nos. 1 to 3 for having written, printed and published the serial story with a view to denigrate the image of the judiciary as a whole.

In paragraphs 3 and 5 of the counter affidavit filed by him, Sri K.N.Y. Patanjali, explained his position in the following words:

“3. I submit that I wrote a satirical novel with the title ‘Mera Bharat Mahan’ which was published as a serial in A.P. Telugu Weekly in the year 2000. The theme of novel is to expose the corruption of entire system right from a common journalist to the Prime Minister. It is only a creative work meant with an intention to point out the social malady of corruption and see that the persons who are involved in corruption be ashamed for their behaviour. It is not meant to defame or offend any particular person or section of the society. Moreover as a law abiding citizen with due respect to the rule of law and the judiciary, which is the last hope of a common man. I have not shown any disrespect to the judiciary. Thus, it cannot be stated that the novel consists of defamatory words in 8th and 9th parts of the serial dated 18.9.2000 and 25.9.2000 published in Andhra Prabha Telugu weekly.

5. I submit that the allegation in relation to the utterances of the character in the story published in the weekly dated 18.9.2000 says ‘it is a case property. As soon as it is received, let us take half of the diamonds and place the duplicate diamonds in their place. Then there would not be any problem. If they are deposited in the court the Sessions Judge and his Clerks swallow the remaining and put the same in the bank locker. The case will be closed in the same manner’. The said words are uttered in the novel by the wife of the police officer who is interested in snatching away the stolen property. It shows that such a character will not have any respect towards the rule of law and as such it is natural that they speak in the same

manner. If for any reason the court has to take cognizance of such things the said utterances will be useful to the courts to read the mind of the criminals and the scant respect they have towards the judiciary under the guise of power i.e., police officers and families of police officers. Though I am not an Advocate but for the mere reason that I happen to be an artist as a part of artistic freedom my expression went to such an extent of imagining the characters of people who have disrespect towards the law and justice. This Hon'ble Court has to see the distinction between a art and journalistic work. In a piece of art the artistic reality is different from truth. In art, reality is expressed creatively. Thus, the artistic reality can only be taken into consideration for determining the purpose of art. From the passage referred to in the letter addressed by the Hon'ble Senior Civil Judge, Amalapuram, the conversation of the characters in the novel cannot be taken as that of the opinion of the writer. Thus, the story published does not in any manner disrepute or lower the image of judiciary in the eye of public. To this extent, I would like to bring the observation of Oscar Wild in his essay 'Decay of Lying'- 'telling of beautiful untrue things is the proper aim of art'. The other conversations of characters referred to in the said letter which are conversations in the novel of a retired Judge who is none else other than the fictitious judge created for the purpose of story for the reasons stated above. Even the said conversations are also meant to bring into light the hideous reality which is intended to be exposed by me through the story. Moreover, the character of a retired judge which is referred to in the letter is not a sitting judge as is admittedly stated to be a retired judge. It is also contended by the fictitious retired judge in the novel that during his entire tenure of service as a judge and a person of judicious nature, has not earned much while he was in service. This shows the respect I have towards the judiciary which is the last hope for a common man including a writer like me. In case if any such utterances are referred in journalistic work seriously an objection can be taken either by this Hon'ble Court or by any law abiding citizens or any authority vested with powers protect the rule of law. It is for the reason that a journalist is supposed to record the existing conditions, as it is which is of news value. In view of the said reason the story written by me is not a journalistic work but only an artistic and creative work. Thus, it cannot be said that the impugned publication

consists of defamatory words in the 8th and 9th parts of the serial titled 'Mera Bharat Mahan' in the editions dated 18.9.2000 and 25.9.2000 of Andhra Prabha Telugu weekly defaming the image of judiciary in general and degrading the dignity of Hon'ble Judges in particular. In view of the said fact no writ can be issued."

In a separate affidavit filed by him, respondent No.1 – Sri Valluru Raghava Rao, has averred that the story was published without any ill motive against the judiciary. He has also tendered unconditional apology if the story is treated as hurting the feeling of the judiciary and judicial officers.

We have heard learned Advocate General and Sri Nandigam Krishna Rao, learned counsel for respondents 1 and 2 and perused the English translation of the story written by respondent No. 2, Sri K.N.Y. Patanjali with the title 'Mera Bharat Mahan' which was published in Andhra Prabha Telugu Illustrated Weekly dated 18.9.2000 and 25.9.2000. Though the words attributed to the retired Judge named Nirmal Kumar, who has been assigned the role in the story, suggest that he had demanded illegal gratification for deciding the matter, if the conversation is read in the backdrop of the whole story, it becomes clear that it was a satire meant to expose the ills of criminal justice system and the same cannot be treated as offence so as to warrant registration of a criminal case against respondents 1 to 3. In the counter affidavit filed by him, Sri K.N.Y. Patanjali, has succinctly explained his intention in writing the story.

In our opinion, there is no warrant for ordering registration of case against either of the first three respondents because the writing does not disclose commission of any cognizable offence.

With the above observation, the writ petition is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

March 29, 2007

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